

9/27/2007 Response to Office Action  
U.S.S.N. 10/689,167

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### REMARKS

Claims 39 and 42-55 are pending. The applicant gratefully acknowledges the statement in the current Office Action that claims 39 and 42-51 are allowed. Claims 52-55 are rejected.

#### 35 U.S.C. § 102(b) REJECTIONS

Claims 52-55 are rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Lin *et al.* (US 5,589,082). The Office Action asserts that Lin *et al.* discloses the method of fabricating a micro-machined apparatus of the present invention. The Office Action argues that the bending path of channel 458 in Figure 7R of Lin can be defined as a tortuous, labyrinth path because the material under cover 456 does not have a straight exit path.

Applicant respectfully disagrees. Lin *et al.* do not mention or suggest a "cover structure defining at least one tortuous channel, wherein said tortuous channel defines a labyrinth path" for their method of fabricating a micro-machined apparatus. To anticipate a claim, a single source must contain all the elements of the claims, "arranged as in the claim." *Richardson v. Suzuki Motor Co.* 868 F 2d. 1226, 1236, 9 U.S.P.Q2d 1913, 1920 (Fed. Cir 1989). However, to advance the prosecution of this application, claims 52-55 have been canceled, without prejudice.

In view of the current amendments, the applicant respectfully submits that the present application is in condition for allowance and solicits action to that end. If there are any additional matters that may be resolved or clarified through a telephone interview, the Examiner is respectfully requested to contact applicant's undersigned representative.

Respectfully submitted,

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